

IN THE SENATE OF THE UNITED STATES.

MARCH 8, 1860.—Ordered to be printed.

Mr. JOHNSON, of Arkansas, made the following

REPORT.

[To accompany Bill S. 255.]

The Committee on Public Lands, to whom was referred the petition of Elias Yulee, late receiver of public moneys at Olympia, Washington Territory, have reëxamined the same, and now report:

The fourth and fifth sections of an act approved September 27, 1850, provided for donations of public lands to such persons as shall be residents of Oregon Territory, as then constituted, on the 1st of December thereafter, and also to such as should migrate thither within three years from that date, upon condition of actual occupation and improvement during a term of four years.—(Statutes at Large, vol. 9, pp. 497 and 498.)

The provisions of this act were extended and continued in force until the 1st of December, 1855, by the act of February 14, 1853, section fifth; and, at the same time, so amended as to allow the settlers to pay for their lands, at the price of one dollar and twenty-five cents per acre, after occupation for two years.—(Statutes at Large, vol. 10, p. 158.)

The whole duty of hearing applications, adjudicating controversies, and receiving payment for lands, under these two acts, was devolved on the surveyor general of Oregon; and, for that reason, special provisions were made for his compensation. The act of September 27, 1850, appointed him a salary of \$2,500 *per annum*, together with \$4,000 for "clerk hire" in his office, and \$1,000 *per annum* for office rent, fuel, books, stationery, and other incidental expenses. The act of February 14, 1853, allowed him two *per centum* on all moneys received, as a compensation for the additional labor and responsibility which it imposed; the same to "include the payment for clerk hire, together with all costs and expenses *incidental to such special services* in any one year." The act provided, also, that "the salary and percentage of said surveyor general, *and for clerk hire*, shall not exceed four thousand dollars for any one year.

It thus appears that, in addition to his annual salary and to the ordinary expenses of his office for clerk-hire, rent, fuel, and the like, Congress allowed the surveyor general a special compensation for the services to be performed under the act of February 14, 1853, just quoted.

The same act (section sixth) required every claimant of lands donated under the fourth section of the act approved September 27, 1850, to file a notice of his claim with the surveyor general on or before the 1st of December, 1853, and every claimant of lands under the fifth section of the same act to file a similar notice on or before the 1st of April, 1855, or else, in either case, to forfeit the claim.

The provisions of the acts of 1850 and 1853 were extended, by the act of July 17, 1854, to *all* the lands in Oregon and Washington Territories, (as well those east as those west of the Cascade mountains,) and so were the provisions of the general act, approved September 4, 1841, allowing rights of preëmption. That act of 1854 established two land offices, one for Oregon and one for Washington, and authorized the appointment of a register and a receiver at each; devolving upon them such duties and responsibilities as had been devolved upon the surveyor general of Oregon by the several acts already mentioned. The act of 1854, section sixth, fixes the compensation of each register and each receiver at \$2,500 *per annum*, and office rent; but forbids them all "fees or other emoluments of any kind whatsoever," except the receiver's actual and necessary expenses in making deposits. (Statutes at Large, vol. 10, p. 306.)

It appears that the land office for Washington Territory (at Olympia) was not opened for the transaction of business until the 1st of January, 1855, although, on the 15th of November, 1854, the surveyor general of Oregon published an advertisement that, after the first of December, 1854, he would receive no further notices, or applications, or proofs, under the several acts of Congress heretofore recited. The petitioner alleges that he was actually engaged (with the register) during the months of November and December, 1854, in the examination of cases and papers transferred by the surveyor general, and in otherwise preparing for the convenient transaction of business with new applicants; and that these duties required the assistance of a clerk in his office. This question of fact the committee cannot properly determine; but leaves it, with other questions of mere detail, to the decision of the executive department.

It appears, also, that the gentleman (Mr. Hurd) employed as clerk in the receiver's office at \$125 per month was employed in the register's office as a laborer, during the same time, or for a considerable period. The petitioner admits this, but alleges (first) that Mr. Hurd actually performed full service in both capacities, and (second) that his double employment was on account of the scarcity of laborers at Olympia. If the fact be so, the government derived an advantage from Mr. Hurd's employment as laborer and as clerk at the same time; and, this being an exceptional case, the committee waives what would otherwise constitute an objection.

Recalling the fact that all notices of claims under the fifth section of the act approved September 27, 1850, and its extension for two years by the act of February 14, 1853, were to be presented on or before the 1st of April, 1855, we can easily understand why the land office at Olympia was overcharged with business, to an extraordinary degree, during the first six or even twelve months. That such was the case in reality, has been sufficiently proved by the late governor and the

late chief justice of Washington Territory, as well as by the correspondence on file in the General Land Office.

If, when the duties and responsibilities imposed on the surveyor general of Oregon, by the acts of September 27, 1850, and February 14, 1853, were transferred to the registers and receivers of the land offices in Oregon and Washington, a special allowance had also been made for the hire of clerks, or if those registers and receivers had not been forbidden to accept the usual fees or emolument, the case of Mr. Yulee would, nevertheless, have resembled many other cases in which Congress (whether wisely or unwisely) has extended particular relief. By the seventh section of the miscellaneous appropriation act, approved August 18, 1856, a general and permanent provision is made for such cases in future. (Statute at Large, vol. 11, page 91.)

But the special features of this case were considered by Congress in the case of the registers of the land offices at Oregon City and Winchester; and by the act of June 5, 1858, provision was made to reimburse those officers "for expenses incurred by them in the employment of clerks actually required for the transaction of the business of their respective offices" on account of the acts of September 27, 1850, and February 14, 1853. (Statutes at Large, vol. 11, page 310.)

The committee report a bill in accordance with that precedent.

